IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

WEDNESDAY, THE 7TH MARCH 2007 / 16TH PHALGUNA 1928

WP(C).No. 6906 of 2007(V)

PETITIONER:

T.N.SANALKUMAR, AGED 43 YEARS,
S/O. NARAYANAN NAIR, PROPRIETOR,
"LAMA" RUBBERS, THAIKOOTTATHIL HOUSE,
KANJIRAMATTOM, THODUPUZHA.

BY ADV. SRI.N.K.MOHANLAL

RESPONDENTS:
----

1. DISTRICT COLLECTOR,
IDUKKI.

2. TAHSILDAR (R.R.),
THODUPUZHA.

3. VILLAGE OFFICER,
THODUPUZHA.

4. VILLAGE OFFICER,
KARIKODE.

5. THE AGRICULTURAL INCOME TAX AND SALES
TAX OFFICER (R), DEPARTMENT OF COMMERCIAL TAXES,
THODUPUZHA.

6. DEPUTY COMMISSIONER (APPEALS),
COMMERCIAL TAXES, THEVARA, ERNAKULAM.

BY GOVERNMENT PLEADER SRI. MUHAMMED RAFIQ (TAXES)

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 07/03/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.BALAKRISHNAN NAIR, J.

W.P.(C) NO. 6906 OF 2007-V

JUDGMENT

The petitioner is aggrieved by the sales tax assessment for the years 2000-01 and 2001-02. He submits, he has filed appeals against those assessment orders. Pending appeal, the respondents have initiated revenue recovery proceedings not only against the petitioner but also against his sureties. So, he has preferred Ext.P1 representation before the Tahsildar (Revenue Recovery), to keep in abeyance the recovery proceedings till the appeals are disposed of by the Deputy Commissioner (Appeals), the 6th respondent herein. Thereafter, this Writ Petition is filed, seeking a writ of prohibition against respondents 1 to 3, restraining them from proceeding against the petitioner and his sureties, pending disposal of the appeals by the 6th respondent. He also seeks a direction to the 2nd respondent Tahsildar, to consider Ext.P1 representation.

2. The filing of an appeal will not operate as stay against the impugned assessment orders. The petitioner has to move the appellate authority and get stay of further recovery of the amounts due under the assessment orders. If stay is obtained, the assessing authority will inform

the revenue recovery officials not to proceed with the recovery. Further, the Tahsildar is not authorised to keep in abeyance the recovery proceedings on a representation filed by the assessee that he has preferred an appeal against the assessment order.

In the result, no relief could be granted to the petitioner in this writ petition. If the petitioner wants early hearing of the appeal, he may move the appellate authority for the same. Subject to that right this Writ Petition is dismissed.

7th March, 2007. K.BALAKRISHNAN NAIR, JUDGE.

Nm/